

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN
CALIFORNIA EDISON COMPANY (U 338-E)
Regarding the Future Disposition of the Mohave
Generating Station.

Application 02-05-046
(Filed May 17, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING WATER AND ENERGY CONSULTING'S
NOTICE OF INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) to claim compensation filed by Water and Energy Consulting (WEC) on November 7, 2002, in the above-referenced proceeding. No party filed a response. This ruling addresses the requirements of the Pub. Util. Code, Division 1, Part 1, Chapter 9, Article 5, § 1804. All statutory references are to the Public Utilities Code.¹

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference in this proceeding was held on October 11, 2002. WEC’s NOI is timely filed.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the

¹ All statutory references are to the Public Utilities Code.

intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied.

Customer Status

WEC qualifies within the third category of § 1802(b). WEC represents the Black Mesa Trust, a 503(c) organization, a non-profit organization representing local Hopi and Navaho people and their supporters. Membership in the Black Mesa Trust includes residential customers of Southern California Edison Company. WEC also represents To'nizh Oni'ani, a grassroots organization of local Dineh people, commonly called the Navaho people.

D.98-04-059 requires groups such as WEC to include in their NOI's a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. WEC included a copy of the organizational statement of the Black Mesa Trust and the Black Mesa Trust's Goals and Objectives. The mission of the Black Mesa Trust is: “To safeguard, preserve and honor the land and waters of Black Mesa.” A goal that is relevant to this proceeding is to “end use of N-aquifer water for coal slurry and investigate alternative methods of transporting coal.”

Financial Hardship

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. For a group or an organization, § 1802(g) defines financial hardship as a state in which “the

economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”

WEC, through To'nizh Oni'ani' and the Black Mesa Trust, represents some of the poorest U.S. citizens. WEC provided the Commission with the statistical information that according to the U.S. Census Bureau, 55% of the adults in the Navaho nation are not employed, the average per capita income on the Navaho nation is \$7,269 per year, and 40.1% of the citizens are below poverty level. To'nizh Oni'ani' is a grassroots organization of local Dineh people dedicated to preserving their water supply and the rest of their local environment. There are many on the reservation who continue to live without access to running water, electricity, or local telephone lines.

WEC also represents the Hopi sinom. According to the statistics given to the Commission by WEC, according to the U.S. Census Bureau, 49.7% of the adults in the Hopi nation are not employed, their average per capita income is \$8,531 per year, and 36.5% of the population is below the poverty level. There is also a section on the Hopi reservation that does not have running water or electricity.

WEC advances that the economic interests of individual Southern California Edison Company residential customers of the Black Mesa Trust are very small relative to the cost of participating in this proceeding. In addition to the poverty of the Black Mesa Trust members, there are also the impediments to communication and access that the absence of electricity and phone service presents.

A finding of significant financial hardship in no way, however, ensures compensation for WEC (Section 1804(b)(2)).

Pursuant to D.98-04-059, an intervenor must state in its NOI how it will represent customer interests that would otherwise be underrepresented. While other intervenors and parties to this proceeding also represent the interests of consumers, WEC alone represents customers concerned about the local air quality, land restoration, and water resource implications of the pending application, as well as revenue implications for the Navajo Nation and Hopi Tribe, and the impacts on the local economy.

Planned Participation

Section 1804(a)(2)(A)(I) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. WEC expects to be an active party in this proceeding and intends to pursue discovery, prepare testimony and witnesses, participate in any hearings that are conducted, and submit briefs and comments as required.

Estimated Compensation Request

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. At this time, WEC estimates a total projected budget of \$230, 250 for this proceeding. WEC's proposed budget for this matter is as follows:

Water & Energy Consulting

Lon House	(400 hours @ \$225/hour)	\$90,000
James Weil	(40 hours @ \$275/hour)	\$11,000
Blaine Reely	(40 hours @ \$200/hour)	\$8,000
Total		\$109,000
Black Mesa Trust	(500 hours @ \$150/avg/hr)	\$75,000
To'nizh Oni'ani'	(250 hours @ \$125/avg/hr)	\$31,250

Estimated Expenses	\$15,000
Grand Total	\$230,250

This ruling does not address the merits of WEC's final compensation claim. The reasonableness of the hourly rates requested for WEC's representatives and expert witnesses will be addressed in their Request for Compensation.

Therefore, **IT IS RULED** that:

1. Water and Energy Consulting's (WEC) Notice of Intent was timely filed.
2. WEC has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it established significant financial hardship, and WEC is found eligible for compensation in this proceeding.
3. WEC is a customer as that term is defined in § 1804(b) and is a group or an organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.
4. WEC fulfilled the requirements of § 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.
5. A finding of eligibility in no way assures compensation.
6. Parties requesting compensation shall make every effort to reduce duplication of contribution.

Dated May 14, 2003, at San Francisco, California.

/s/ CAROL BROWN

Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Water and Energy Consulting's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated May 14, 2003, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

